

## Part IV - Items of General Interest

### Tribal economic development bonds - Extension of deadline to issue bonds

Announcement 2010-88

#### SECTION 1. BACKGROUND

In Notice 2009-51, 2009-28 I.R.B. 128 (July 13, 2009), the Treasury Department and the IRS addressed administrative procedures for allocations of the \$2 billion national bond volume limitation authority (“volume cap”) to issue tribal economic development bonds (“Tribal Economic Development Bonds”) under § 7871(f) of the Internal Revenue Code (“Code”). On September 15, 2009, the IRS announced allocations in an aggregate amount of approximately \$1 billion of volume cap in the first tranche of allocation (the “First Allocation”) of authority to issue Tribal Economic Development Bonds. Section 7(f) of Notice 2009-51 provides that if bonds are not issued by December 31, 2010, for any or all of the allocation received by an Indian tribal government from the First Allocation, then such allocation is treated as forfeited.

#### SECTION 2. EXTENSION OF ADMINISTRATIVE DEADLINE TO ISSUE BONDS

.01 Except as otherwise provided in this Announcement, Indian tribal governments that received an allocation of volume cap from the First Allocation will

receive an automatic extension of time of six months from December 31, 2010, to June 30, 2011, to issue Tribal Economic Development Bonds pursuant to those allocations. This extension does not apply to an Indian tribal government that has notified or will notify the IRS that it does not intend to use its allocation of volume cap from the First Allocation to issue Tribal Economic Development Bonds. In those cases, the allocation has been, or will be, forfeited as of the date of the notification. The extension described in this Announcement does not change that forfeiture.

.02 Additionally, Indian tribal governments that received an allocation of volume cap from the First Allocation may submit a written request for an additional extension of time of six months from June 30, 2011, to December 31, 2011, to issue Tribal Economic Development Bonds pursuant to those allocations. Indian tribal governments must submit requests for additional extensions to the IRS by March 31, 2011. A request for an additional extension must include: (1) a copy of the allocation letter from the IRS for the allocation to which the request relates; and (2) statements from an official of the Indian tribal government duly authorized to execute legal documents on behalf of the Indian tribal government in making the request, made under penalty of perjury, including (a) a statement explaining the reason for the extension of time, (b) a statement that the Indian tribal government reasonably expects to issue Tribal Economic Development Bonds pursuant to such allocation on or before December 31, 2011, to finance the project described in the Indian tribal government's original application ("Application"), and (c) a statement that such official has knowledge of the relevant facts and circumstances relating to the request and the Application, has examined the request

and the Application, and that the information contained in the request and the Application is true, correct, and complete.

.03 A request for an additional extension must be submitted by hard copy in duplicate accompanied by a copy of the request in electronic format on compact disc sent by mail to the Internal Revenue Service (IRS), SE:T:GE:TEB:CPM, Attention: Mark Helfer, 1122 Town & Country Commons, Chesterfield, Missouri 63017.

.04 A request for an additional extension should not include an inquiry relating to deviations from information submitted in the Application under Section 8 of Notice 2009-51. Section 8 of Notice 2009-51 provides that an allocation of Tribal Economic Development Bond volume cap is valid notwithstanding insubstantial deviations from the information submitted in the Application. Section 8 of Notice 2009-51 also describes criteria applicable to determinations of whether a deviation with respect to the information submitted in the Application is insubstantial, as well as procedures to apply for approval of specific insubstantial deviations.

.05 For requests submitted in compliance with the requirements described in this Announcement for additional extensions from June 30, 2011, to December 31, 2011, the IRS expects to confirm the extensions by May 31, 2011. Indian tribal governments that receive additional extensions will receive a total extension of one year from December 31, 2010, to December 31, 2011, to issue Tribal Economic Development Bonds pursuant to volume cap received in the First Allocation.

### SECTION 3. FORFEITURE OF ALLOCATIONS

If bonds are not issued by June 30, 2011, for any or all of an allocation received by an Indian tribal government pursuant to the First Allocation with respect to which the Indian tribal government does not receive an additional extension as described in section 2.02 of this Announcement, then such allocation is treated as forfeited. If bonds are not issued by December 31, 2011, for any or all of an allocation received by an Indian tribal government pursuant to the First Allocation with respect to which the Indian tribal government receives such an additional extension, then such allocation is treated as forfeited. Any allocation amounts treated as forfeited may be available for allocation by the IRS as part of an allocation process to be announced by the IRS at some future date.

#### SECTION 4. EFFECT ON OTHER TIMING REQUIREMENTS

.01 In February, 2010, the IRS announced allocations in an aggregate amount of approximately \$1 billion of volume cap in the second tranche of allocation (the “Second Allocation”) of authority to issue Tribal Economic Development Bonds. Section 7(f) of Notice 2009-51 provides that if bonds are not issued by December 31, 2011, for any or all of the allocation received by an Indian tribal government pursuant to the Second Allocation, then such allocation is treated as forfeited. This Announcement does not modify any provisions relating to the forfeiture of allocations of volume cap received by Indian tribal governments pursuant to the Second Allocation.

.02 Tribal Economic Development Bonds may be issued as build America bonds (“Build America Bonds”) if additional eligibility requirements for Build America Bonds are met. Section 54AA(d)(1)(B) of the Code requires Build America Bonds to be issued

before January 1, 2011. This Announcement does not modify the statutory requirement that Build America Bonds be issued before January 1, 2011.

## SECTION 5. DRAFTING INFORMATION

The principal author of this Announcement is Debbie Cho of the IRS Office of Tax Exempt Bonds. However, other personnel from the IRS and Treasury Department participated in its development. For further information regarding this Announcement contact Debbie Cho at (714) 347-9431 (not a toll-free call).